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| <b>NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES</b>  |  | Docket Number:<br>HME/7982.001 |  |
| In re Application of Sharon F. Kleyne   |  |                                |  |
| Application Number: 09/614,790  |  | Filed: July 12, 2000           |  |
| For: METHOD AND KIT FOR MOISTURIZING THE SURFACE OF THE EYE   |  |                                |  |
| Group Art Unit 1617   |  | Examiner: Michael A. Willis    |  |
| <p>Applicant hereby appeals to the Board of Patent Appeals and Interferences from the decision of the examiner dated May 1, 2002, rejecting claims: 75 to 82.</p> <p>The fee for this Notice of Appeal is (37 C.F.R. 1.17(b): <span style="float: right;">\$320</span></p> <p><input checked="" type="checkbox"/> Applicant claims small entity status. See 37 C.F.R. 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: <span style="float: right;">\$160</span></p> <p><input type="checkbox"/> A check in the amount of the fee is enclosed.</p> <p><input checked="" type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p><input type="checkbox"/> The Commissioner has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.</p> <p><input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 50-1773. I have enclosed a duplicate copy of this sheet.</p> <p><input type="checkbox"/> A petition for an extension of time under 37 C.F. R. 1.136(a) (PTO/SB/22) is enclosed.</p> <p><b>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</b></p> <p>I am the:</p> <p><input type="checkbox"/> applicant.</p> <p><input type="checkbox"/> assignee of record of the entire interest.</p> <p><input checked="" type="checkbox"/> attorney or agent of record.</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34(a)<br/>Registration number if acting under 37 CFR 1.34(a) _____</p> <div style="text-align: right;"><br/>_____<br/>Signature</div> <div style="text-align: right;">Howard Eisenberg<br/>Reg. No. 36,789<br/>_____<br/>Typed or printed name</div> <div style="text-align: right;">July 25, 2002<br/>_____<br/>Date</div> |  |                                |  |

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| FEE TRANSMITTAL<br>for FY 2002<br><i>Patent fees are subject to annual revision.</i>   |                        | Complete if Known   |                |
|--|------------------------|---|----------------|
| TOTAL AMOUNT OF PAYMENT \$160  |                        | Application Number  | 09/614,790     |
|  |                        | Filing Date   | July 12, 2000  |
|  |                        | First Named Inventor  | Kleyne, Sharon |
|  |                        | Examiner Name   | Michael Willis |
|  |                        | Group/ Art Unit   | 1617           |
|  |                        | Attorney Docket No.   | HME/7982.001   |
| METHOD OF PAYMENT (check one)  |                        | FEE CALCULATION (continued)   |                |
| 1. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge the indicated fees and credit any over payments to:<br>Deposit Account Number <u>50-1773</u><br>Deposit Account Name <u>Howard Eisenberg</u><br><input checked="" type="checkbox"/> Charge any additional fee required under 37 CFR 1.16 & 1.17<br><input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27  |                        | 3. ADDITIONAL FEES<br>Large Entity Small Entity<br>Fee Fee Fee Fee Fee Description Fee Paid<br>Code (\$) Code (\$) Code (\$) Code (\$) Code (\$)<br>105 130 205 65 Surcharge - late filing fee or oath<br>127 50 227 25 Surcharge-late provisional filing fee or cover sheet<br>139 130 139 130 Non-English specification<br>147 2,520 147 2,520 For filing a request for ex-parte reexamination<br>112 920* 112 920* Requesting publication of SIR prior to Examiner action<br>113 1840* 113 1840* Requesting publication of SIR after Examiner action<br>115 110 215 55 Extension for reply within first month<br>116 400 216 200 Extension for reply within second month<br>117 920 217 460 Extension for reply within third month<br>118 1,440 218 720 Extension for reply within fourth month<br>128 1,880 228 980 Extension for reply within fifth month<br>119 320 219 160 Notice of Appeal<br>120 320 220 160 Filing a brief in support of an appeal<br>121 280 221 140 Request for oral hearing<br>138 1,510 138 1,510 Petition to institute a public use proceeding<br>140 110 240 55 Petition to revive - unavoidable<br>141 1,280 241 640 Petition to revive - unintentional<br>142 1,280 242 640 Utility issue fee (or reissue)<br>143 480 243 230 Design issue fee<br>144 620 244 310 Plant issue fee<br>122 130 122 130 Petitions to the Commissioner<br>123 50 123 50 Processing fee under 37 CFR 1.17(q)<br>128 180 126 180 Submission of Information Disclosure Stmt.<br>581 40 581 40 Recording each patent assignment per property (times number of properties)<br>146 740 246 370 Filing a submission after final rejection (37 C.F.R. 1.129(a))<br>149 740 249 370 For each additional invention to be examined (37 C.F.R. 1.129(b))<br>179 740 279 370 Request for Continued Examination (RCE)<br>169 800 169 900 Request for expedited examination of a design application<br>Other (specify) _____ |                |
| 2. <input checked="" type="checkbox"/> Payment Enclosed<br><input type="checkbox"/> Check <input checked="" type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> Other  |                        |   |                |
| FEE CALCULATION  |                        |   |                |
| 1. BASIC FILING FEE<br>Large Entity Small Entity<br>Fee Fee Fee Fee Fee Description Fee Paid<br>Code (\$) Code (\$) Code (\$) Code (\$) Code (\$)<br>101 740 201 370 Utility filing fee<br>108 330 208 165 Design filing fee<br>107 510 207 255 Plant filing fee<br>108 740 208 370 Reissue filing fee<br>114 160 214 80 Provisional filing fee<br>SUBTOTAL (1) \$0  |                        |   |                |
| 2. EXTRA CLAIM FEES<br>Total Claims <u>8</u> - 43** = <u>0</u> x <u>9</u> = <u>0</u><br>Indep. Claims <u>1</u> - 5** = <u>0</u> x <u>42</u> = <u>0</u><br>Multiple Dependent _____ = <u>0</u><br>*or number of previously paid, if greater. For reissues, see below.<br>Large Entity Small Entity<br>Fee Fee Fee Fee Fee Description<br>Code (\$) Code (\$) Code (\$) Code (\$) Code (\$)<br>103 18 203 9 Claims in excess of 20<br>102 84 202 42 Independent claims in excess of 3<br>104 280 204 140 Multiple dependent claim, if not paid<br>109 84 209 42 **Reissue independent claims over original patent<br>110 18 210 9 *Reissue claims in excess of 20 and over original patent<br>SUBTOTAL (2) \$0 |                        |   |                |
|  |                        | SUBTOTAL (3) \$160  |                |
| SUBMITTED BY   |                        | Complete (if applicable)  |                |
| Name (print type)  | Howard Eisenberg, Esq. | Registration No.  | 36,789         |
| Signature  |                        | Telephone   | (503) 227-5631 |
|  |                        | Date  | July 25, 2002  |



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|---|-----------------------------|-------------------------------|--------------|
| <b>TRANSMITTAL FORM</b><br>(to be used for all correspondence after initial filing) | <b>Application Number</b>   | 09/614,790                    |              |
|   | <b>Filing Date</b>          | July 12, 2000                 |              |
|   | <b>First Named Inventor</b> | Kleyne, Sharon                |              |
|   | <b>Group Art Unit</b>       | 1617                          |              |
|   | <b>Examiner Name</b>        | Michael Willis                |              |
| <b>Total Number of Pages in this Submission</b>                                     | 5                           | <b>Attorney Docket Number</b> | HME/7982.001 |

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| <input checked="" type="checkbox"/> Fee Transmittal Form (dup.)<br><input checked="" type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment/Response<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavit(s)/Declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Response to Missing Part(s)/Incomplete Application<br><input type="checkbox"/> Response to Missing Parts under 37CFR 1.52 or 1.53 | <input type="checkbox"/> Assignment Papers (for an application)<br><input type="checkbox"/> Drawings<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition<br><input type="checkbox"/> Petition To Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Small Entity Statement<br><input type="checkbox"/> Request for Refund | <input type="checkbox"/> After Allowance Communication to Group<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input type="checkbox"/> Additional Enclosure(s) (please identify below) |
| Remarks:   |  |   |

|  |   |
|--|---|
| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT |   |
| Firm or Individual Name                    | Howard M. Eisenberg<br>1600 ODS Tower, 601 SW Second Ave<br>Portland, OR 97204-3157 |
| Signature                                  |   |
| Date                                       | July 25, 2002   |

|  |                  |
|--|------------------|
| CERTIFICATE OF MAILING   |                  |
| I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date. |                  |
| Type or print name   | Howard Eisenberg |
| Signature  |                  |
| Date   | July 25, 2002    |